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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 44022
Plaintiff-Respondent,)	
)	Bannock County Case No.
v.)	CR-2015-544
)	
BRAD LEE WACASTER,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Is Wacaster's sentencing challenge barred by the doctrine of invited error?

Wacaster's Sentencing Challenge Is Barred By The Doctrine Of Invited Error

Wacaster was arguing with his wife, Erin, when he pinned her against the wall, used both hands to "push against her neck," and also "push[ed] against her throat and face with his forearms," "choking" her. (PSI, p.4.¹) The couple's minor children

¹ PSI page numbers correspond with the page numbers of the electronic file "CONFIDENTIAL CERTIFICATE OF EXHIBITS WACASTER 44022.pdf."

intervened, yelling at Wacaster “to get off [their] mother” and attempting to “step in between” and push Wacaster away from Erin. (PSI, p.4.) Erin was then able to get away and move into the kitchen; however, Wacaster followed her, pulled out a butcher knife, and “pointed it at Erin and the children, asking ‘Do you want me to knock you over the head with this?’” (PSI, p.4.) Erin asked her daughter to call the police, but Wacaster told his daughter, “you’re not calling anyone” and attempted to wrestle the phone away from the girl, causing her to fall to the floor. (PSI, p.5.) Erin then grabbed Wacaster from behind, pulled his shirt up over his head to “get him away from” their daughter, and told her to run out the door. (PSI, p.5.) The girl was able to run outside and contacted the police. (PSI, pp.4-5.)

The state charged Wacaster with attempted strangulation and aggravated assault, with a deadly weapon enhancement. (R., pp.63-65.) Pursuant to a binding Rule 11 plea agreement, Wacaster pled guilty to attempted strangulation with a deadly weapon enhancement, the state dismissed the remaining charge, and the parties stipulated the court would “have the discretion to determine the length of the sentence” and would also “place [Wacaster] on probation for a period determined by the court.” (R., pp.102, 104-06, 110.) The district court accepted the plea agreement and imposed a unified sentence of 16 years, with six years fixed, suspended the sentence, and placed Wacaster on supervised probation for 15 years. (R., pp.123-26, 130-39.) Wacaster filed a notice of appeal timely from the judgment of conviction. (R., pp.142-45.)

“Mindful that the district court followed the terms of the plea agreement,” Wacaster nevertheless asserts his 15-year probationary period is excessive in light of

his acceptance of responsibility and purported remorse. (Appellant's Brief, pp.3-4.) Wacaster stipulated to the sentence – including the probationary period – he received and is therefore precluded by the invited error doctrine from challenging the sentence on appeal.

A party is estopped, under the doctrine of invited error, from complaining that a ruling or action of the trial court that the party invited, consented to or acquiesced in was error. State v. Carlson, 134 Idaho 389, 402, 3 P.3d 67, 80 (Ct. App. 2000). The purpose of the invited error doctrine is to prevent a party who “caused or played an important role in prompting a trial court” to take a particular action from “later challenging that decision on appeal.” State v. Blake, 133 Idaho 237, 240, 985 P.2d 117, 120 (1999). This doctrine applies to sentencing decisions as well as to rulings during trial. State v. Leyva, 117 Idaho 462, 465, 788 P.2d 864, 867 (Ct. App. 1990).

On appeal, Wacaster acknowledges he agreed, as part of the plea agreement, that the district court would have the discretion to determine both the length of his sentence and the length of his probationary period. (Appellant's Brief, pp.2-4.) Because the district court followed the terms of the plea agreement and Wacaster received the sentence and period of probation to which he consented, he cannot claim on appeal his sentence or probationary period is excessive. Therefore, Wacaster's claim of an abuse of sentencing discretion is barred by the doctrine of invited error and Wacaster's sentence, including the 15-year term of probation, should be affirmed.

Conclusion

The state respectfully requests this Court to affirm Wacaster's conviction and sentence.

DATED this 25th day of October, 2016.

/s/
JESSICA M. LORELLO
Deputy Attorney General

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 25th day of October, 2016, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

REED P. ANDERSON
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

/s/
JESSICA M. LORELLO
Deputy Attorney General